

CHAPTER NO. 896

SENATE BILL NO. 2361

By Ford

Substituted for: House Bill No. 2119

By Bowers, Towns, Armstrong, Lois DeBerry

AN ACT To amend Tennessee Code Annotated, Title 56, to enact the "Provider-Sponsored Organization Act of 1998".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, is amended by adding Sections 2 through 5 of this act as a new, appropriately designated chapter.

SECTION 2. The title of this act is and may be cited as the "Provider-Sponsored Organization Act of 1998".

SECTION 3. As used in this act, unless the context otherwise required:

(1) "Commissioner" means the Commissioner of Commerce and Insurance.

(2) "Health care services" means a health or medical care procedure or service rendered by a health care provider that:

(A) provides testing, diagnosis or treatment of a human disease or dysfunction; or

(B) dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a human disease or dysfunction.

(3) "HHS" means the United States Department of Health and Human Services.

(4) "Medicare+Choice program" means the criteria developed by United States Public Law 105-33, The Balanced Budget Act of 1997 ("BBA") whereby risk-bearing organizations are permitted to offer health insurance or health benefits coverage to Medicare-eligible enrollees through a Medicare+Choice plan.

(5) "Provider" means any person, including a physician or hospital that is licensed or otherwise authorized in this state to provide health care services.

(6) "Provider-sponsored organization" or "PSO" means a public or private entity that:

(A) Is established or organized, and operated, by a health care provider, or group of affiliated health care providers;

(B) That provides a substantial proportion (as defined by rule or regulation promulgated by HHS) of the health care items and services under the Medicare+Choice program directly through the provider or affiliated group of providers; and

(C) With respect to which the affiliated providers share, directly or indirectly, substantial financial risk with respect to the provision of such items and services and have at least a majority financial interest in the entity.

As used in subdivision (C), a provider is "affiliated" with another provider if, through contract, ownership or otherwise:

(i) One provider, directly or indirectly, controls, is controlled by, or is under common control with the other;

(ii) The providers are part of a controlled group of corporations under Section 1563 of the Internal Revenue Code of 1986;

(iii) Each provider is a participant in a lawful combination under which each provider shares substantial financial risk in connection with the organization's operations; or

(iv) The providers are part of an affiliated service group under Section 414 of the Internal Revenue Code of 1986.


SECTION 4. Before an entity may operate under the Medicare+Choice program, the entity must obtain a license from the commissioner or be a PSO which obtains a waiver of the requirement for state licensure from HHS in accordance with United States Public Law 105-33, The Balanced Budget Act of 1997. Any entity which obtains such a waiver is not required to obtain a license from the commissioner to operate as a PSO offering a Medicare+Choice plan in the State of Tennessee.

SECTION 5. The commissioner shall be authorized to adopt rules and regulations in accordance with the Uniform Administrative Procedures Act as compiled in Title 4, Chapter 5 to implement the provisions of this act, including solvency standards, which do not impose requirements in addition to those required by federal regulations applicable to PSOs.

SECTION 6. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 1998, the public welfare requiring it.

PASSED: April 23, 1998


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 7th day of May 1998


DON SINQUISTE, GOVERNOR